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## **Question Time: Ohio prosecutors charge 'John Does' for rape**

**Should placeholder indictments be allowed?**

**By Rob Burgess**  
**Tribune night editor**

**[Editor's note:** To participate in future queries, keep an eye on our Twitter and Facebook accounts.]

A debacle involving a backlog of untested rape kits in Ohio has created a novel approach to getting around statute of limitations requirements for prosecutions.

"[Cuyahoga County, Ohio] prosecutors started using the placeholder John Doe indictments in 2013 as a way of beating Ohio's 20-year statute of limitations to prosecute rape cases in place at the time. (This year, Ohio lawmakers voted to extend the statute to 25 years and to give prosecutors an additional five years file charges in cases where DNA evidence identifies a suspect.) In the past two years, prosecutors have garnered indictments against 88 John Does and — somewhat controversially — 48 additional 'unknown males' mentioned in police reports. Those cases make up about 40 percent of all

indictments obtained by the task force, which is reinvestigating thousands of rape cases reported since 1993 in which evidence went untested. As of [July,] the group has completed 1,000 investigations resulting in 341 indictments. If projections hold, the team, made of county investigators, prosecutors, state Bureau of Criminal Investigation agents, Cleveland police detectives and victim advocates will still be investigating the older cases for two or more years," reported Rachel Dissell of The Plain Dealer on July 16. "So far, prosecutors have learned the identities of four."

So, we wanted to know: "Should there be a statute of limitations for rape prosecutions? If so, what should it be and why? If not, why? Do you think prosecutors should be able to indict someone's DNA in hopes of making a connection later in order to get around the statute of limitations? Why or why not?"

### **Your answers**

"Yes, let's ask complex legal questions to the general public and expect intelligent responses." — **Mark Reel Jr.**

"Who would even be opposed to frying a rapist? ... That's tough [to prosecute] if their DNA is never able to be entered." — **Megan**

**Marschand Pierceall**

“There is no statute of limitations on feeling violated the rest of your life, so no.” — **Ashley Gunnar Pope**

### **Our answers**

“I tend to have an over-simplified view of the world. And with that in mind, I think that if you can prosecute and convict someone of rape — one of, if not, the most de-humanizing crimes — then do whatever it takes. As to how long the statute of limitations should be ... Let me ask this, how long is a DNA sample viable in nature? And I'm not talking fictional like in ‘Jurassic Park.’ As for prosecutors being able to indict a person's DNA, that's a slippery slope. Getting DNA samples for rape or any other sexual crime is one thing. ... Ultimately it comes down to using whatever sciences and powers we have in a responsible way. And that's a great power. Maybe too great. And what's the line from ‘Spider-Man’? ‘With great power comes great responsibility.’”

— **Quintin Harlan**

“I think it would depend on the case. Current law imposes a statute of limitations in some cases and removes it in others (like when deadly force or drugs are used). I'd prefer to see Indiana's standard five-year limit raised to, say, 10 years, to allow for prosecution of perpetrators whose victims were young and may need more time to come to terms with the crime committed against them. But indicting someone's

DNA? That sounds a little preposterous, like charging a kidney or an earlobe with criminal intent. Rape may be heinous, but absurd workarounds aren't the answer if changing the statute of limitations is what's really needed.” — **Sarah Einselen**

“This situation in Ohio is a mess, but this business of indicting someone’s DNA to get around a statute of limitations is an extremely interesting idea. It’s not without its own problems. First and foremost would be the intent of a statute of limitations in the first place. This type of indictment may help stop serial rapists, but could very well infringe on the Speedy Trial Clause of the Sixth Amendment in ways we haven’t yet fully grappled with. The further we get from the actual crime, the harder it is to convincingly convict someone. Rape is, generally speaking, a crime with no witnesses, so the credibility of the evidence and testimony are the keys to any criminal trial. These degrade over time. Any length of time you pick for a statute is arbitrary, but something between Indiana and Ohio’s limitations would be reasonable. Of course, the real answer would involve testing these rape kits immediately instead of letting them stack up for years and years.” — **Rob Burgess**

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